

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1194

Citations Affected: IC 10-13-3-6; IC 12-7-2; IC 12-13-15.1; IC 12-14-25.5-3; IC 31-9-2-29.7; IC 31-9-2-58.5; IC 31-33; IC 31-34; IC 31-37-17-6.1; IC 31-37-19; IC 31-39-2-13.5; IC 34-30-2-44.1.

Synopsis: Child abuse. Conference committee report for EHB 1194. Provides that a child protective services child abuse or neglect report may conclude that abuse or neglect is indicated. (Current law allows only substantiated and unsubstantiated findings.) Provides that criminal history checks are required of certain individuals. Requires the local child protection service to provide training to caseworkers concerning the statutory and constitutional rights of persons subject to investigation. Establishes the statewide child fatality review team to investigate fatalities involving children. Requires the disclosure of information relevant to establishing the facts and circumstances concerning the death of a child determined to be the result of abuse, abandonment, or neglect if this information has been redacted by a juvenile court to exclude irrelevant information, including identifying information. Specifies that information concerning caseworkers and employees of certain social service agencies is not to be redacted. Provides that the juvenile court has 30 days to redact the record. **(This conference committee report does the following: Provides that a court may place a child in the home of a person having a substantiated report of abuse or neglect, or in the home of a person who has committed certain crimes or delinquent acts, if the court makes a written finding that the placement is in the best interest of the child, and that the conviction, adjudication, or substantiated report is not relevant to the person's present ability to care for a child, and specifies certain factors that the court must consider in its order. Prohibits a court from placing a child in a home with a person who has committed specified felonies or juvenile offenses.)**

Effective: July 1, 2004.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1194 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION
- 3 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 4 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency"
- 5 means any agency or department of any level of government whose
- 6 principal function is:
- 7 (1) the apprehension, prosecution, adjudication, incarceration,
- 8 probation, rehabilitation, or representation of criminal offenders;
- 9 (2) the location of parents with child support obligations under 42
- 10 U.S.C. 653;
- 11 (3) the licensing and regulating of riverboat gambling operations; or
- 12 (4) the licensing and regulating of pari-mutuel horse racing
- 13 operations.
- 14 (b) The term includes the following:
- 15 (1) The office of the attorney general.
- 16 (2) The Medicaid fraud control unit, for the purpose of
- 17 investigating offenses involving Medicaid.
- 18 (3) A nongovernmental entity that performs as its principal function

the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

(2) For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.

(3) For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. (a) "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.

SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. (a) "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.

SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. (a) "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.

SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee",**
 2 **for purposes of IC 12-13-15.1, has the meaning set forth in**
 3 **IC 12-13-15.1-5.**

4 SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2004]: **Sec. 6.5. A local child fatality review team may request**
 7 **that the statewide child fatality review committee make a fatality**
 8 **review of a child from the area served by the local child fatality**
 9 **review team if a majority of the members of a local child fatality**
 10 **review team vote to make the request.**

11 SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2004]:

14 **Chapter 15.1. Statewide Child Fatality Review Committee**

15 **Sec. 1. As used in this chapter, "child" means an individual less**
 16 **than eighteen (18) years of age.**

17 **Sec. 2. As used in this chapter, "emergency medical services"**
 18 **means emergency ambulance services or other services, including**
 19 **extrication and rescue services, provided to an individual in need**
 20 **of immediate medical care in order to prevent loss of life or**
 21 **aggravation of physiological or psychological illness or injury.**

22 **Sec. 3. As used in this chapter, "local child fatality review team"**
 23 **refers to a county or regional child fatality review team**
 24 **established under IC 12-13-15.**

25 **Sec. 4. As used in this chapter, "mental health provider" means**
 26 **any of the following:**

- 27 (1) A registered nurse or licensed practical nurse licensed
- 28 under IC 25-23.
- 29 (2) A clinical social worker licensed under IC 25-23.6-5.
- 30 (3) A marriage and family therapist licensed under
- 31 IC 25-23.6-8.
- 32 (4) A psychologist licensed under IC 25-33.
- 33 (5) A school psychologist licensed by the Indiana state board
- 34 of education.

35 **Sec. 5. As used in this chapter, "statewide child fatality review**
 36 **committee" refers to the statewide child fatality review committee**
 37 **established by section 6 of this chapter.**

38 **Sec. 6. (a) The statewide child fatality review committee is**
 39 **established for the purpose of reviewing a child's death that is:**

- 40 (1) sudden;
- 41 (2) unexpected; or
- 42 (3) unexplained;

43 **if the county where the child died does not have a local child**
 44 **fatality review team or if the local child fatality review team**
 45 **requests a review of the child's death by the statewide committee.**

46 **(b) The statewide child fatality review committee may also**
 47 **review the death of a child upon request by an individual.**

(c) A request submitted under subsection (b) must set forth:

- (1) the name of the child;
- (2) the age of the child;
- (3) the county where the child died;
- (4) whether a local child fatality review team reviewed the death; and
- (5) the cause of death of the deceased child.

Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

- (1) a coroner or deputy coroner;
- (2) a representative from:
 - (A) the state department of health established by IC 16-19-1-1;
 - (B) a local health department established under IC 16-20-2;
 - or
 - (C) a multiple county health department established under IC 16-20-3;
- (3) a pediatrician;
- (4) a representative of law enforcement;
- (5) a representative from an emergency medical services provider;
- (6) a director of an office of family and children;
- (7) a representative of a prosecuting attorney;
- (8) a pathologist with forensic experience who is licensed to practice medicine in Indiana;
- (9) a mental health provider;
- (10) a representative of a child abuse prevention program; and
- (11) a representative of the department of education.

Sec. 9. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

(c) The statewide child fatality review committee chairperson shall determine the agenda for each meeting.

Sec. 10. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

- (1) confidential records; or
- (2) identifying information regarding the death of a child that is confidential under state or federal law;

1 shall be held as an executive session.

2 (c) If a meeting is held as an executive session under subsection
3 (b), each individual who:

4 (1) attends the meeting; and

5 (2) is not a member of the statewide child fatality review
6 committee;

7 shall sign a confidentiality statement prepared by the division. The
8 statewide child fatality review committee shall keep all
9 confidentiality statements signed under this subsection.

10 (d) A majority of the members of the statewide child fatality
11 review committee may vote to disclose any report or part of a
12 report regarding a fatality review to the public if the information
13 is in the general public interest as determined by the statewide
14 child fatality review committee.

15 Sec. 11. Members of the statewide child fatality review
16 committee and individuals who attend a meeting of the statewide
17 child fatality review team as an invitee of the chairperson:

18 (1) may discuss among themselves confidential matters that
19 are before the statewide child fatality review committee;

20 (2) are bound by all applicable laws regarding the
21 confidentiality of matters reviewed by the statewide child
22 fatality review committee; and

23 (3) except when acting:

24 (A) with malice;

25 (B) in bad faith; or

26 (C) with gross negligence;

27 are immune from any civil or criminal liability that might
28 otherwise be imposed as a result of communicating among
29 themselves about confidential matters that are before the
30 statewide child fatality review committee.

31 Sec. 12. The division shall provide training to the statewide child
32 fatality review committee.

33 Sec. 13. (a) The division shall collect and document information
34 surrounding the deaths of children reviewed by the statewide child
35 fatality review committee. The division shall develop a data
36 collection form that includes:

37 (1) identifying and nonidentifying information;

38 (2) information regarding the circumstances surrounding a
39 death;

40 (3) factors contributing to a death; and

41 (4) findings and recommendations.

42 (b) The data collection form developed under this section must
43 also be provided to:

44 (1) the appropriate community child protection team
45 established under IC 31-33-3; and

46 (2) the appropriate:

47 (A) local health department established under IC 16-20-2;

1 or

2 (B) multiple county health department established under
3 IC 16-20-3.

4 Sec. 14. The affirmative votes of the voting members of a
5 majority of the statewide child fatality review committee are
6 required for the committee to take action on any measure.

7 Sec. 15. The expenses of the statewide child fatality review
8 committee shall be paid from funds appropriated to the division.

9 Sec. 16. The testimony of a member of the statewide child
10 fatality review committee is not admissible as evidence concerning
11 an investigation by the statewide child fatality review committee.

12 SECTION 9. IC 12-14-25.5-3 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Family
14 preservation services may provide:

- 15 (1) comprehensive, coordinated, flexible, and accessible services;
- 16 (2) intervention as early as possible with emphasis on establishing
- 17 a safe and nurturing environment;
- 18 (3) services to families who have members placed in care settings
- 19 outside the nuclear family; and
- 20 (4) planning options for temporary placement outside the family if
- 21 it would endanger the child to remain in the home.

22 (b) Unless authorized by a juvenile court, family preservation
23 services may not include a temporary out-of-home placement if a
24 person who:

- 25 (1) is currently residing in the location designated as the
- 26 out-of-home placement; or
- 27 (2) in the reasonable belief of family preservation services is
- 28 expected to be residing in the location designated as the
- 29 out-of-home placement during the time the child at imminent
- 30 risk of placement would be placed in the location;

31 has committed an act resulting in a substantiated report of child
32 abuse or neglect or has a juvenile adjudication or a conviction for
33 a felony listed in IC 12-17.4-4-11.

34 (c) Before placing a child at imminent risk of placement in a
35 temporary out-of-home placement, the county office of family and
36 children shall conduct a criminal history check (as defined in
37 IC 31-9-2-29.7) for each person described in subsection (b)(1) and
38 (b)(2). However, the county office of family and children is not
39 required to conduct a criminal history check under this section if
40 the temporary out-of-home placement is made to an entity or
41 facility that is not a residence (as defined in IC 3-5-2-42.5) or that
42 is licensed by the state.

43 SECTION 10. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE
44 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
45 1, 2004]: Sec. 29.7. "Criminal history check", for purposes of
46 IC 31-34 and IC 31-37, means a report consisting of:

- 47 (1) criminal history data (as defined in IC 10-13-3-5);

- (2) each substantiated report of child abuse or neglect reported in a jurisdiction where the county office of family and children has reason to believe the subject resided; and
- (3) each adjudication for a delinquent act described in IC 31-37-1-2 reported in a jurisdiction where the county office of family and children has reason to believe the subject resided.

SECTION 11. IC 31-9-2-58.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an investigation of suspected child abuse or neglect that:

(1) provide:

(A) significant indications that a child may be at risk for abuse or neglect; or

(B) evidence that abuse or neglect previously occurred; and

(2) cannot be classified as substantiated or unsubstantiated.

SECTION 12. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The local child protection service:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article; ~~and~~

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

SECTION 13. IC 31-33-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) Upon completion of an investigation, the local child protection service shall classify reports as substantiated, **indicated**, or unsubstantiated.

(b) Except as provided in subsection (c), a local child protection service shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).

(c) If a local child protection service has:

(1) classified a report under subsection (a) as indicated; and

(2) not expunged the report under subsection (b);
 and the subject of the report is the subject of a subsequent report,
 the one (1) year period in subsection (b) is tolled for one (1) year
 after the date of the subsequent report.

SECTION 14. IC 31-33-18-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Except as
 provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its
 repeal).

(2) Any other information obtained, reports written, or photographs
 taken concerning the reports in the possession of:

(A) the division of family and children;

(B) the county office of family and children; or

(C) the local child protection service.

(b) Except as provided in section 1.5 of this chapter, all records
 held by:

(1) the division of family and children;

(2) a county office of family and children;

(3) a local child protection service;

(4) a local child fatality review team established under
 IC 12-13-15; or

(5) the statewide child fatality review committee established
 under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse,
 abandonment, or neglect are confidential and may not be
 disclosed.

SECTION 15. IC 31-33-18-1.5 IS ADDED TO THE INDIANA
 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2004]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family and children;

(2) a county office of family and children;

(3) a local child protection service;

(4) a local child fatality review team established under
 IC 12-13-15; or

(5) the statewide child fatality review committee established
 under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse,
 abandonment, or neglect.

(b) As used in this section, "identifying information" means
 information that identifies an individual, including an individual's:

(1) name, address, date of birth, occupation, place of
 employment, employer identification number, mother's
 maiden name, Social Security number, or any identification
 number issued by a governmental entity;

(2) unique biometric data, including the individual's
 fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or

1 routing code;

2 (4) telecommunication identifying information; or

3 (5) telecommunication access device, including a card, a plate,
4 a code, a telephone number, an account number, a personal
5 identification number, an electronic serial number, a mobile
6 identification number, or another telecommunications service
7 or device or means of account access.

8 (c) Unless information in a record is otherwise confidential
9 under state or federal law, a record described in subsection (a)
10 that has been redacted in accordance with this section is not
11 confidential and may be disclosed to any person who requests the
12 record. The person requesting the record may be required to pay
13 the reasonable expenses of copying the record.

14 (d) When a person requests a record described in subsection (a),
15 the entity having control of the record shall immediately transmit
16 a copy of the record to the court exercising juvenile jurisdiction in
17 the county in which the death of the child occurred. However, if
18 the court requests that the entity having control of a record
19 transmit the original record, the entity shall transmit the original
20 record.

21 (e) Upon receipt of the record described in subsection (a), the
22 court shall, within thirty (30) days, redact the record to exclude
23 identifying information of a person or other information not
24 relevant to establishing the facts and circumstances leading to the
25 death of the child. However, the court shall not redact the record
26 to exclude information that relates to an employee of the division
27 of family and children, an employee of a county office of family
28 and children, or an employee of a local child protection service.

29 (f) The court shall disclose the record redacted in accordance
30 with subsection (e) to any person who requests the record, if the
31 person has paid:

32 (1) to the entity having control of the record, the reasonable
33 expenses of copying under IC 5-14-3-8; and

34 (2) to the court, the reasonable expenses of copying the
35 record.

36 (g) The court's determination under subsection (e) that certain
37 identifying information or other information is not relevant to
38 establishing the facts and circumstances leading to the death of a
39 child is not admissible in a criminal proceeding or civil action.

40 SECTION 16. IC 31-33-18-2 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other
42 material described in ~~section 1~~ **section 1(a)** of this chapter **and the**
43 **unredacted reports and other material described in section 1(b) of**
44 **this chapter** shall be made available only to the following:

45 (1) Persons authorized by this article.

46 (2) A legally mandated public or private child protective agency
47 investigating a report of child abuse or neglect or treating a child or

1 family that is the subject of a report or record.

2 (3) A police or other law enforcement agency, prosecuting
3 attorney, or coroner in the case of the death of a child who is
4 investigating a report of a child who may be a victim of child abuse
5 or neglect.

6 (4) A physician who has before the physician a child whom the
7 physician reasonably suspects may be a victim of child abuse or
8 neglect.

9 (5) An individual legally authorized to place a child in protective
10 custody if:

11 (A) the individual has before the individual a child whom the
12 individual reasonably suspects may be a victim of abuse or
13 neglect; and

14 (B) the individual requires the information in the report or record
15 to determine whether to place the child in protective custody;

16 (6) An agency having the legal responsibility or authorization to
17 care for, treat, or supervise a child who is the subject of a report
18 or record or a parent, guardian, custodian, or other person who is
19 responsible for the child's welfare.

20 (7) An individual named in the report or record who is alleged to be
21 abused or neglected or, if the individual named in the report is a
22 child or is otherwise incompetent, the individual's guardian ad litem
23 or the individual's court appointed special advocate, or both.

24 (8) Each parent, guardian, custodian, or other person responsible
25 for the welfare of a child named in a report or record and an
26 attorney of the person described under this subdivision, with
27 protection for the identity of reporters and other appropriate
28 individuals.

29 (9) A court, **for redaction of the record in accordance with**
30 **section 1.5 of this chapter, or** upon the court's finding that
31 access to the records may be necessary for determination of an
32 issue before the court. However, **except for disclosure of a**
33 **redacted record in accordance with section 1.5 of this chapter,**
34 access is limited to in camera inspection unless the court
35 determines that public disclosure of the information contained in the
36 records is necessary for the resolution of an issue then pending
37 before the court.

38 (10) A grand jury upon the grand jury's determination that access
39 to the records is necessary in the conduct of the grand jury's
40 official business.

41 (11) An appropriate state or local official responsible for the child
42 protective service or legislation carrying out the official's official
43 functions.

44 (12) A foster care review board established by a juvenile court
45 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the
46 court's determination that access to the records is necessary to
47 enable the foster care review board to carry out the board's
48 purpose under IC 31-34-21.

49 (13) The community child protection team appointed under
50 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to

enable the team to carry out the team's purpose under IC 31-33-3.
 (14) A person about whom a report has been made, with protection
 for the identity of:

(A) any person reporting known or suspected child abuse or
 neglect; and

(B) any other person if the person or agency making the
 information available finds that disclosure of the information
 would be likely to endanger the life or safety of the person.

**(15) An employee of the division of family and children, a
 caseworker, or a juvenile probation officer conducting a
 criminal history check under IC 12-14-25.5-3, IC 31-34, or
 IC 31-37 to determine the appropriateness of an out-of-home
 placement for a:**

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

**The results of a criminal history check conducted under this
 subdivision must be disclosed to a court determining the
 placement of a child described in clauses (A) through (C).**

**(16) A local child fatality review team established under
 IC 12-13-15-6.**

**(17) The statewide child fatality review committee established
 by IC 12-13-15.1-6.**

SECTION 17. IC 31-33-22-2 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) An individual who
~~(1) knowingly requests, obtains, or seeks to obtain child abuse or~~
~~neglect information under false pretenses or~~
~~(2) knowingly falsifies child abuse or neglect information or~~
~~records;~~

commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

(1) falsifies child abuse or neglect information or records; or

**(2) obstructs or interferes with a child abuse investigation,
 including an investigation conducted by a local child fatality
 review team or the statewide child fatality review committee;**

**commits obstruction of a child abuse investigation, a Class A
 misdemeanor.**

SECTION 18. IC 31-34-4-2 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged
 to be a child in need of services is taken into custody under an order of
 the court under this chapter, the court shall consider placing the child
 with a suitable and willing blood or adoptive relative caretaker, including
 a grandparent, an aunt, an uncle, or an adult sibling, before considering
 any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or
 an adoptive relative caretaker, the court may order the division of family
 and children to:

(1) complete a home study of the relative's home; and

(2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check of each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the division of family and children, expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

(d) Except as provided in subsection (f), a court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.

(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order an out-of-home placement if:

(1) a person described in subsection (c)(1) or (c)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.

1 However, a court may not order an out-of-home placement if the
 2 person has been convicted of a felony listed in IC 12-17.4-4-11
 3 that is not specifically excluded under subdivision (1)(B), or has a
 4 juvenile adjudication for an act that would be a felony listed in
 5 IC 12-17.4-4-11 if committed by an adult that is not specifically
 6 excluded under subdivision (1)(B) .

7 (g) In making its written finding under subsection (f), the court
 8 shall consider the following:

9 (1) The length of time since the person committed the offense,
 10 delinquent act, or abuse or neglect.

11 (2) The severity of the offense, delinquent act, or abuse or
 12 neglect.

13 (3) Evidence of the person's rehabilitation, including the
 14 person's cooperation with a treatment plan, if applicable.

15 SECTION 19. IC 31-34-18-6.1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. (a) The
 17 predispositional report prepared by a probation officer or caseworker
 18 shall include the following information:

19 (1) A description of all dispositional options considered in preparing
 20 the report.

21 (2) An evaluation of each of the options considered in relation to
 22 the plan of care, treatment, rehabilitation, or placement
 23 recommended under the guidelines described in section 4 of this
 24 chapter.

25 (3) The name, occupation and position, and any relationship to the
 26 child of each person with whom the preparer of the report
 27 conferred as provided in section 1.1 of this chapter.

28 (b) If a probation officer or a caseworker is considering an
 29 out-of-home placement, including placement with a blood or an
 30 adoptive relative caretaker, the probation officer or caseworker
 31 shall conduct a criminal history check for each person who:

32 (1) is currently residing in the location designated as the
 33 out-of-home placement; or

34 (2) in the reasonable belief of the probation officer or
 35 caseworker, is expected to be residing in the location
 36 designated as the out-of-home placement during the time the
 37 child would be placed in the location.

38 The results of the criminal history check must be included in the
 39 predispositional report.

40 (c) A probation officer or caseworker is not required to conduct
 41 a criminal history check under this section if:

42 (1) the probation officer or caseworker is considering only an
 43 out-of-home placement to an entity or facility that:

44 (A) is not a residence (as defined in IC 3-5-2-42.5); or

45 (B) is licensed by the state; or

46 (2) placement under this section is undetermined at the time
 47 the predispositional report is prepared.

48 SECTION 20. IC 31-34-19-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided in subsection (d), a court may not enter a dispositional decree under subsection (b) if a person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) reasonably expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.

(b) In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(d) A court may enter a dispositional decree under subsection (b) if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the dispositional decree is in the best interest of the child.

However, a court may not enter a dispositional decree if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the conviction, adjudication, or substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 21. IC 31-34-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 1.5 of this chapter**, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department or the county office of family and children.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(5) Partially or completely emancipate the child under section 6 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 22. IC 31-34-20-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a**

child in another home under section 1(3) of this chapter or awarding wardship to a county office of family and children that will place the child with a person under section 1(4) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or
 (2) reasonably expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home; has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A court may enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if:

- (1) a person described in subsection (a)(1) or (a)(2) has:
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or
 - (B) been convicted or had a juvenile adjudication for:
 - (i) reckless homicide (IC 35-42-1-5);
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was

entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office of family and children is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B) .

(d) In making its written finding under subsection (c), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 23. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) reasonably expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section

1 if criminal history information under IC 31-34-4-2,
 2 IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes
 3 whether a person described in subsection (a)(1) or (a)(2) has
 4 committed an act resulting in a substantiated report of child abuse
 5 or neglect, has a juvenile adjudication for an act that would be a
 6 felony listed in IC 12-17.4-4-11 if committed by an adult, or has a
 7 conviction for a felony listed in IC 12-17.4-4-11.

8 (c) A permanency plan under this chapter includes the following:

9 (1) The intended permanent or long term arrangements for care and
 10 custody of the child that may include any of the following
 11 arrangements that the court considers most appropriate and
 12 consistent with the best interests of the child:

13 (A) Return to or continuation of existing custodial care within the
 14 home of the child's parent, guardian, or custodian or placement
 15 of the child with the child's noncustodial parent.

16 (B) Initiation of a proceeding by the agency or appropriate person
 17 for termination of the parent-child relationship under IC 31-35.

18 (C) Placement of the child for adoption.

19 (D) Placement of the child with a responsible person, including:

20 (i) an adult sibling;

21 (ii) a grandparent;

22 (iii) an aunt;

23 (iv) an uncle; or

24 (v) ~~other~~ another relative;

25 who is able and willing to act as the child's permanent custodian
 26 and carry out the responsibilities required by the permanency
 27 plan.

28 (E) Appointment of a legal guardian. The legal guardian appointed
 29 under this section is a caretaker in a judicially created relationship
 30 between the child and caretaker that is intended to be permanent
 31 and self-sustaining as evidenced by the transfer to the caretaker
 32 of the following parental rights with respect to the child:

33 (i) Care, custody, and control of the child.

34 (ii) Decision making concerning the child's upbringing.

35 (F) Placement of the child in another planned, permanent living
 36 arrangement.

37 (2) A time schedule for implementing the applicable provisions of
 38 the permanency plan.

39 (3) Provisions for temporary or interim arrangements for care and
 40 custody of the child, pending completion of implementation of the
 41 permanency plan.

42 (4) Other items required to be included in a case plan under
 43 IC 31-34-15 or federal law, consistent with the permanent or long
 44 term arrangements described by the permanency plan.

45 (d) A juvenile court may approve a permanency plan if:

46 (1) a person described in subsection (a)(1) or (a)(2) has:

47 (A) committed an act resulting in a substantiated report of
 48 child abuse or neglect; or

49 (B) been convicted or had a juvenile adjudication for:

- (i) reckless homicide (IC 35-42-1-5);
- (ii) battery (IC 35-42-2-1) as a Class C or D felony;
- (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
- (iv) arson (IC 35-43-1-1) as a Class C or D felony;
- (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
- (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
- (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B) .

(e) In making its written finding under subsection (d), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
- (2) The severity of the offense, delinquent act, or abuse or neglect.
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 24. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.
- (3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker

1 must conduct a criminal history check for each person who:

2 (1) is currently residing in the location designated as the
3 out-of-home placement; or

4 (2) in the reasonable belief of the probation officer or
5 caseworker, is expected to be residing in the location
6 designated as the out-of-home placement during the time the
7 child would be placed in the location.

8 The results of the criminal history check must be included in the
9 predispositional report.

10 (c) A probation officer or caseworker is not required to conduct
11 a criminal history check under this section if:

12 (1) the probation officer or caseworker is considering only an
13 out-of-home placement to an entity or a facility that:

14 (A) is not a residence (as defined in IC 3-5-2-42.5); or

15 (B) is licensed by the state; or

16 (2) placement under this section is undetermined at the time
17 the predispositional report is prepared.

18 SECTION 25. IC 31-37-19-1 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section**
20 **6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2,
21 the juvenile court may enter one (1) or more of the following
22 dispositional decrees:

23 (1) Order supervision of the child by the probation department or
24 the county office of family and children.

25 (2) Order the child to receive outpatient treatment:

26 (A) at a social service agency or a psychological, a psychiatric,
27 a medical, or an educational facility; or

28 (B) from an individual practitioner.

29 (3) Remove the child from the child's home and place the child in
30 another home or shelter care facility. Placement under this
31 subdivision includes authorization to control and discipline the child.

32 (4) Award wardship to a person or shelter care facility. Wardship
33 under this subdivision does not include the right to consent to the
34 child's adoption.

35 (5) Partially or completely emancipate the child under section 27 of
36 this chapter.

37 (6) Order:

38 (A) the child; or

39 (B) the child's parent, guardian, or custodian;

40 to receive family services.

41 (7) Order a person who is a party to refrain from direct or indirect
42 contact with the child.

43 SECTION 26. IC 31-37-19-6, AS AMENDED BY P.L.1-2003,
44 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent
46 child under IC 31-37-1.

47 (b) Except as provided in section 10 of this chapter **and subject to**
48 **section 6.5 of this chapter**, the juvenile court may:

49 (1) enter any dispositional decree specified in section 5 of this

chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

(ii) a community based correctional facility for children.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 27. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:**

(1) currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or

(2) reasonably expected to be residing in the home in which

the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) The juvenile court may enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of

1 a dispositional decree placing the child in another home is in
2 the best interest of the child.

3 However, a court may not enter a dispositional decree placing a
4 child in another home under section 1(3) or 6(b)(2)(D) of this
5 chapter or awarding wardship to the county office of family and
6 children if the person has been convicted of a felony listed in
7 IC 12-17.4-4-11 that is not specifically excluded under subdivision
8 (1)(B), or has a juvenile adjudication for an act that would be a
9 felony listed in IC 12-17.4-4-11 if committed by an adult that is
10 not specifically excluded under subdivision (1)(B) .

11 (d) In making its written finding under subsection (c), the court
12 shall consider the following:

13 (1) The length of time since the person committed the offense,
14 delinquent act, or act that resulted in the substantiated report
15 of abuse or neglect.

16 (2) The severity of the offense, delinquent act, or abuse or
17 neglect.

18 (3) Evidence of the person's rehabilitation, including the
19 person's cooperation with a treatment plan, if applicable.

20 SECTION 28. IC 31-37-19-17.4 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2004]: Sec. 17.4. (a) This section applies if a child is a
23 delinquent child under IC 31-37-1 due to the commission of a
24 delinquent act that, if committed by an adult, would be a sex crime
25 listed in IC 35-38-1-7.1(e).

26 (b) The juvenile court may, in addition to any other order or
27 decree the court makes under this chapter, order:

28 (1) the child; and

29 (2) the child's parent or guardian;

30 to receive psychological counseling as directed by the court.

31 SECTION 29. IC 31-39-2-13.5 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2004]: Sec. 13.5. The records of the juvenile court are
34 available without a court order to an employee of the division of
35 family and children, a caseworker, or a juvenile probation officer
36 conducting a criminal history check under IC 12-14-25.5-3,
37 IC 31-34, or IC 31-37 to determine the appropriateness of an
38 out-of-home placement for a:

39 (1) child at imminent risk of placement;

40 (2) child in need of services; or

41 (3) delinquent child.

42 SECTION 30. IC 34-30-2-44.1 IS ADDED TO THE INDIANA
43 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
44 JULY 1, 2004]: Sec. 44.1. IC 12-13-15.1-11 (Concerning members
45 of the statewide child fatality review committee and persons who
46 attend a meeting of the statewide child fatality review committee
47 as invitees of the chairperson).

(Reference is to EHB 1194 as reprinted February 26, 2004.)

Conference Committee Report
on
Engrossed House Bill 1194

Signed by:

Representative Avery
Chairperson

Senator Dillon

Representative Budak

Senator Broden

House Conferees

Senate Conferees